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Specialty Healthcare  
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# Specialty Healthcare Death Throes Continue

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A week before Christmas, employers [got an early present](#) when the newly constituted republican majority at the NLRB overruled the “overwhelming community-of-interest” unit configuration union election standard set out in *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB No. 83 (2011).

In *PCC Structurals, Inc.*, 365 NLRB no. 160 (December 15, 2017) the NLRB reset the clock and went back to applying its traditional community-of-interest factors when determining an appropriate unit (the proper grouping of employees for purposes of a union election). On the heels of *PCC Structurals*, and as [reported by my partner David Pryzbylski](#), on December 22, 2017, the new NLRB General Counsel, issued an Operations Management Memorandum (OM 18-5) directing Regional Directors to heed *PCC Structurals* teaching and to allow reconsideration of currently active union election unit determination issues.

Yesterday, the D.C. Circuit joined the parade by issuing an ORDER in *Volkswagen Group of America, Inc. v. NLRB* Case No. 16-1309 Consolidated with 16-1353. The issue in this case was whether the United Auto Workers (UAW) properly petitioned under *Specialty Healthcare* for a unit of only maintenance employees, seeking to exclude the plants several thousand production employees from the unit. On December 26, 2017, in another blow to the *Specialty Healthcare* standard, and a particular blow the UAW, the D.C. Circuit issued a one line ORDER remanding the case to the NLRB to

consider the unit issue in light of the NLRB's *PCC Structural's* traditional community-of-interest standard. What is clear is that the *PCC Structural's* decision is having a far reaching impact.